

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of Application No. 2009-01

EXHIBIT 36R.00

WHISTLING Ridge Energy LLC

WHISTLING RIDGE ENERGY PROJECT

**PREFILED REBUTTAL TESTIMONY
WITNESS #3 – LEONARD BAUER**

Q Please state your name and business address.

A My name is Leonard Bauer and my business address is 1011 Plum St. SE, Olympia,
Washington, 98504.

Q Have you provided previous prefiled direct testimony or is this rebuttal your first
testimony to be submitted.

A This is my first submission of testimony.

Q What is your present occupation, profession; and what are your duties and responsibilities?

A I am the Managing Director of Growth Management Services for the Washington Department of Commerce. I am responsible for the State of Washington's program of technical and financial assistance to local governments for all aspects of their comprehensive land use planning. We provide advice and consultation to all cities and counties in the state, as well as financial assistance as appropriated by the Washington State Legislature. I am a professionally-certified planner, and have served in that profession for 21 years for local, regional and state governmental agencies in Washington and Oregon.

Q Would you please identify what has been marked for identification as Exhibit 36R.01.

A Exhibit 36R.01 is a résumé of my professional planning experience and educational background.

Q Are you sponsoring any other exhibits for entry into the record, and if so would you please identify them?

A Yes, I am sponsoring one additional exhibit:

Exhibit 36R.02 Annual Report, Columbia River Gorge National Scenic Area, Economic Development Program, Skamania County Economic Development Council, June 2010.

Q Are you able to answer questions under cross examination regarding these sections and exhibits?

A Yes.

Q Please describe the purpose of this rebuttal testimony?

A I am testifying in response to the prefiled direct testimony of Mr. Dean Apostol (Ex. 21.00).

Q Mr. Apostol has testified that certain standards used to assess the appropriateness of a project within the Columbia River National Scenic Area (NSA), can and should be used to assess the appropriateness of a project that can be seen from within the NSA even though it is outside the NSA, as is the case with the Whistling Ridge Energy Project (WREP). (Ex. 21.00 p10,11) Do you have concerns about this statement?

A Yes, in general I do. I am not an expert in visual assessment, and it is not an area of Commerce jurisdiction, so I cannot speak about the qualities of one particular assessment methodology versus another. And in this case I cannot speak to the appropriateness of using the particular standards Mr. Apostol addresses to assess visual impacts. But I can speak to the general concept of applying a set of land use development standards created for application within a defined geographic area, and adopted by the appropriate land use authority for that area, to another area that is within the jurisdiction of an entirely different land use authority. In my opinion, it is entirely inappropriate. Land use

development standards are designed to carry out the land use policy goals adopted by the elected officials with jurisdiction over a specific geographic area. The policy goals, and the development standards adopted to achieve them, are adopted after opportunities for comment by members of the public, including the property owners in that area. This process allows for due process for all interested parties, and provides certainty for property owners regarding the value and potential uses of their property. Investments are made and taxes assessed based on these duly adopted development standards.

For example, the development standards adopted by a city council to apply in an area zoned for residential use are entirely different from those adopted by the council of an adjacent city for an area zoned for industrial use. The result is that each area will be developed with the appropriate type of development. However, if one city's development standards were to be suddenly applied to both areas, the same kind of development will occur in both areas, regardless of each city's adopted policy goals. The development standards in the NSA Management Plan were adopted to guide development within the NSA. If the same standards that are appropriate for the NSA are used for areas outside the NSA, the same projects will be approved, and none other, regardless of the policy goals of the county or city elected officials. That is why we are concerned.

Q Does the Columbia River National Scenic Area Act (Act) address the issue of boundaries and land use?

A Yes, and it is very clear. The Act has a Savings Provision which says,

“Nothing in this Act shall...establish protective perimeters or buffer zones around the scenic area or each special management area. The fact that activities or uses inconsistent with the management directives for the scenic area or special management areas can be seen or heard from these areas shall not, of itself, preclude such activities or uses up to the boundaries of the scenic area or special management areas.” (P.L. 99-663, Sec. 17(a)(10))

Applying standards developed to guide development within the NSA to the WREP project would do exactly that, establish a protective perimeter or buffer zone around the scenic area, in direct contradiction to the law. And if, as a result, the WREP should be rejected on this basis, county policy goals, and state goals and policies regarding both renewable energy development and economic development in general would be thwarted. (See Ex. 34.00, prefiled direct testimony of Mr. Tony Usibelli for discussion of State energy goals and policies)

Q Does your concern go beyond the WREP project itself, and the county lands outside the NSA boundaries?

A Yes, it also includes other areas that are not part of the NSA. In the Act, Congress identified urban areas in nine cities and towns in Washington (and four in Oregon) and

explicitly exempted them from management plans and regulations that would apply to the NSA.¹ (Ibid, Sec. 4(e)(1))

The Act set boundaries for a purpose, including the purpose of allowing development outside the NSA that would not be approved in it. The Act set aside special management areas within the NSA with even stricter standards, and exempted the urban areas to encourage economic growth there (P.L. 99-663, Sec. (3)(2)). The urban areas have land use ordinances that allow both commercial and industrial uses.

Over the years, these communities have experienced difficult economic times, with the collapse of the timber and fishing industries, and now from the recent recession. In addition, establishing the NSA withdrew much of the area's land from potential development; counties were not be able to develop the land, and towns and cities were not able to annex the county land for development. These restrictions severely limited the growth potential for these communities, and, in recognition, Congress authorized \$5 million dollars for each state to use to support economic development in the area. (Ibid, Sec. 11 (b) and (c)) Commerce administered these monies in the Washington Investment Fund for most of their investment history, having recently turned the fund over to the Skamania County Economic Development Council. To date, a little over \$4 million dollars have been appropriated by Congress, and awarded as grants and loans to support 47 public and private economic development projects. (Exhibit 36R.02) Commerce has

¹ The towns and cities of Bingen, Carson, Dallesport, Home Valley, Lyle, North Bonneville, Stevenson, White Salmon, and Wishram.

awarded an additional \$6,050,000 in loans to businesses in the nine jurisdictional cities through other funding sources such as the Rural Washington fund.

For Skamania County alone, Commerce has provided approximately \$195,000 per year since 2001 for NSA planning, and over \$14 million in Community Development Block Grant (CDBG) and Community Economic Revitalization Board (CERB) grants, and Public Works Project (PWP) loans and grants to the nine cities for infrastructure and other economic development projects. And these are just investments administered by Commerce. We know that federal and state funds from other agencies supporting other community programs have been invested in these communities as well.

We are concerned that these previous investments, using taxpayer funds, remain the foundation for continued economic growth in these areas, and that new investments be made to help these communities grow.

Q What is the exact nature of your concern?

A If EFSEC were to reject the WREP *on the grounds* recommended by Mr. Apostol, it would set a precedent that opponents of other projects in the area might try to leverage to defeat those projects. And that would create great uncertainty about future economic development for private property owners in the areas outside the boundaries of the NSA. Uncertainty over what potential uses could be developed on certain properties typically stifles interest in investing in those properties. Thus, the areas outside the NSA would

find it difficult to attract or even retain businesses or residents, resulting in county or city revenues that remain stagnant at best. Counties or cities, in turn, would be unable to invest in community facilities and resources, affecting the families' and individuals' quality of life.

Q Do you have a summary statement?

A I do. I would just like to direct the Council's attention to the prefiled direct testimony of some of the local jurisdiction interveners.

- Skamania County PUD sees the WREP as a fundamental source of reliable back up power because they are losing the Condit dam, currently their only source of back up generation. The WREP substation will provide the county with a continuous, redundant source of backup power even better than the dam. (Ex. 43.00 p7) In America today, reliable electric power is the backbone of a vibrant economy.
- The Port of Skamania is currently investing to expand their infrastructure for sewer and water, electric power, telecommunications and natural gas on 32 acres to encourage industrial investment. (Ex. 44.00 p3f) The Port testifies of the “great uncertainty” about whether this project or future projects could be developed if the NSA standards were to apply. (Ex. 44.00 p4)
- The Klickitat County Economic Development Authority operates an airport on 1,000 acres of commercial property surrounded by the NSA. Besides the previous investments they have made, including new hangers and runway lighting, they are

currently developing the first 30 acres of a proposed 140 acre business park site.

The airport is a major amenity for the County providing an additional way for

tourists and businesses to come to the area. (Ex. 49.00 p 4f)

My point is just to underscore that the concern about the impact of the Council's WREP decision on the economy of the area is not just the concern of one state agency, but of the local jurisdictions as well.

Respectfully Submitted,

Leonard Bauer, Managing Director
Growth Management Services
Washington State Department of Commerce